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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,129	07/26/2005	Alexander Gutsol	4264.73438	4959
24978	7590	06/24/2009	EXAMINER	
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			NGUYEN, NGOC YEN M	
ART UNIT	PAPER NUMBER			
		1793		
MAIL DATE	DELIVERY MODE			
06/24/2009	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/531,129	<b>Applicant(s)</b> GUTSOL ET AL.
	<b>Examiner</b> Ngoc-Yen M. Nguyen	<b>Art Unit</b> 1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 23 February 2009.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-15 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-15 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

### **DETAILED ACTION**

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicants are request to point out support by page and line numbers in the instant specification for "an influent spray of water droplets".

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is unclear if "influent" is for just the "spray of water droplets" or both the "spray of water droplets" and the "water film".

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over S. Masuda et al., "Novel Plasma Chemical Technologies-PPCP and SPCP for Control of Gaseous Pollutants and Air Toxics", Journal of Electrostatics, Vol. 34, No. 4, May 1995, pp. 415-438, optionally in view of Schiffner (5,861,123) and Makin et al (4,181,675).

Masuda et al disclose a pulse corona induced plasma chemical process (PPCP) for control of gaseous pollutants (NO<sub>x</sub>, SO<sub>x</sub>, VOCs) and air toxics as well as odors (note abstract). PPCP uses nanosecond pulse coronas in a corona reactor in combination with a nanosecond high-voltage pulse power supply with pulse frequency of 50-250 Hz (0.05-.25 kHz) (note page 416, third full paragraph from bottom).

The great advantages of PPCP are it is very simple in construction and their overall cost, both initial and running, is one of the lowest among many other processes.

For PPCP, there are several aspects to be carefully considered, one of which is the removal of the reaction products from the gas phase to avoid the reverse reaction. This can be a water film formed on the reactor wall to absorb the reaction products (note item (4)(d) on page 419).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a water film on the reactor wall for the process of Masuda et al to promote the removal the reaction products. For the actual ratio of the water flow to the gas flow, it would have been obvious to one skill in the art to optimize such ratio to obtain the highest destruction and removal efficiency.

Optionally, Schiffner '123 can be applied to teach the need to remove trace amounts of methanol from pulp mill bleach plant emissions (note column 10, lines 34-37). The "trace amount" fairly suggests that the amount of methanol in the emissions is low, i.e. in ppm range, as required in the instant claims 4, 8, 11.

Optionally, Makin '675 can be applied to teach that methanol vapor, i.e. methanol in a gaseous stream, can be removed by scrubbing with water (note column 2, lines 31-34).

It would have been obvious to use the process of Masuda et al to remove methanol, which is a VOC, as suggested by Schiffner '123 the in presence of a water film because such water film would facilitate the removal of methanol as suggested by Makin '675.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sobacchi et al, "Experimental assessment of non-thermal plasma techniques for removal of paper industry VOC emissions", 15<sup>th</sup> International Symposium on Plasma Chemistry, Orleans, July 9-13, 2001. Symposium Proceedings, Vol. VII: poster

contributions, pp. 3135-3140) (taken from <http://plasma.mem.drexel.edu/publications/>),  
optionally further in view of Makin '675.

It should be noted that the Sobacchi is available as a reference under 35 USC, 102(b) for all claims because there is no support for the following limitations in the provisional application 60/367231, therefore, the earliest effective filing date for all claims is the filing date of the PCT/US03/09089, i.e. March 24, 2003. The following limitations are examples of limitations that do not have support in the provisional application:

- "influent" in claim;
- "*about* 0.01 to *about* 2 kHz" (no support for the "about" limitation) in claims 1, 6, 10;
- "0.1 to *about* 1 kHz" in claims 3, 6 and 10;
- "about 60 to *about* 6000 ppm VOC" in claims 4 and 6;
- " *about* 40°C to *about* 65°C" in claims 7 and 10;
- "about 4200 VOC" in claims 8 and 10;
- "300 to *about* 3000 ppm VOC" in claim 11;
- "*about* 99 percent *or more*" in claim 12, same reason as stated above or "or more";
- "oriented strandboard production" in claim 13.

Sobacchi discloses a process using non-thermal plasma techniques for treating of volatile organic compounds (VOCs) emissions from the paper industry (note abstract). The gas compositions are listed in Table 1. The amounts of VOCs listed in

Table 1 overlaps the claimed ranges. With respect to the encompassing and overlapping ranges previously discussed, the subject matter as a whole would have been obvious to one of ordinary skill in the art at the time of invention to select the portion of the prior art's range which is within the range of the applicants' claims because it has been held *prima facie* case of obviousness to select a value in a known range by optimization for the results. *In re Boesch*, 205 USPQ 215. Additionally, the subject matter as a whole would have been obvious to one of ordinary skill in the art at the time invention was made to have selected the overlapping portion of the range disclosed by the reference because overlapping ranges have been held to be a *prima facie* case of obviousness. *In re Malagari*, 182 USPQ 549.

In the experiments, pulse frequency was varied between 266 Hz and 1450 Hz (0.266 to 1.45 kHz). A water flow rate equal to 0.25 ml/min was provided and the gas flow rate was 2 SLM (note third page of the article, first full paragraph).

The temperature can be from 70-200°C (note page 4 of the article, last paragraph). The target objective of 99% removal can be reached (note page 3 of the article, second full paragraph).

Sobacchi discloses that corona discharge allows for achieving high values of Destruction and Removal Efficiency (DRE), with much lower power consumption (note last page of the article, first full paragraph).

The ratio of the water spray to the exhaust gas flow is  $0.25/2 = 0.125$  ml/min. This value is very close to the claimed value of "about 0.2 ml/min", therefore, no patentable difference is seen. Furthermore, the value of "0.125" would have suggested

to one of ordinary skill in the art a slightly higher value based upon a reasonable expectation of success, *In re O'Farrell*, 853 F.2d 894, 904, 7 USPQ2d 1673, 1681 (Fed. Cir. 1988).

It would have been obvious to one of ordinary skill in the art to optimize the process conditions in Sobacchi, such as water flow rate, temperature, pulse frequency, etc. to obtain the highest removal rate at lowest power consumption.

Optionally, Makin '675 can be applied as stated above to teach that the presence of water spray would further facilitate the removal of methanol by scrubbing action.

Applicant's arguments filed February 23, 2009 have been fully considered but they are not persuasive.

Applicants argue that the water in Masuda is not an influent stream but is a reaction byproduct of the chemical processes creating the reaction products in the reactor.

There is no clear disclosure in Masuda to support Applicants' allegation that the water film is a reaction byproduct. It appears that "the water film *formed* on the reactor wall" as disclosed in item (4) (note page 419) can be formed by any method, i.e. forming in-situ by producing water as the reaction by-product or introducing fresh water from outside source, as long as a water film is formed to absorb the reaction products.

Applicants argue that if certain specific conditions are not met, no water film will be formed.

If no water film, as reaction byproduct, will be formed, it would have been obvious to one skilled in the art to creating the water film by other means, such as introducing

fresh water, so that the water film can absorb the reaction products as required in Masuda.

Applicants argue that the process of Makin does not use plasma nor does it disclose the recitation of passing an exhaust gas through a pulse corona discharge chamber in the presence of the influent spray of water droplets or water film.

Makin can be optionally applied to teach that a water scrubber can be used to remove methanol instead of a water film. Makin is not relied upon to teach the use of a plasma or corona discharge. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicants argue that in the abstract, Masuda discloses that PPCP and SPCP are completely dry processes.

Masuda, however, further discloses that the PPCP and SPCP processes can be combined with a wet ESP for the final removal of the reaction products (note abstract) and as specifically disclosed in item (4)(d) (note page 419), a water film can be used to remove, by absorption, the reaction product.

Applicants argue that for the rejection over Sobacchi, the limitation "about 90% percent or more" has been deleted from claims 1, 6, and 10 so that Sobacchi is not a proper reference.

The list of limitations that do not have support in the provisional application as stated in the previous office action was not intended to be a comprehensive, exhaustive list. All the limitations as required in claims 1, 6 and 10 still do not have support in the provisional application (note the above rejection). Even if these independent claims were further amended so that all limitations would have support in the provisional application, only these claims would then have entitled to the earlier date of the provisional application, but not the dependent claims. Each claim in this C-I-P application would have its own date, depending on whether or not all the limitations in this particular claim has support in the provisional application, not all dependent claims would entitle to the same date as independent claims.

Applicants argue Makin does not use plasma.

It should be noted that Makin is only optionally applied. This argument is not persuasive for the same reasons as stated above.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc-Yen M. Nguyen whose telephone number is (571) 272-1356. The examiner can normally be reached on Part time schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on (571) 272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ngoc-Yen M. Nguyen/  
Primary Examiner, Art Unit 1793

nmm  
June 24, 2009